



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Benefits Administration**  
**Washington, D.C. 20420**

January 3, 2007

Director (00/21)  
All VA Regional Offices and Centers

In Reply Refer To: 216C  
Fast Letter 06-29

**SUBJ: Unauthorized Representation of Claimants and Unlawful Solicitation of Fees**

There have been reports about individuals employed by private companies who claim to help veterans and their dependents apply for VA benefits. Some of these individuals have targeted elderly claimants at assisted living facilities. They give claimants the impression that they are employed by VA.

## **Background**

Some regional offices have received inquiries or complaints about individuals that were paid by assisted living facilities to “represent” veterans and other claimants with their VA benefits. These individuals lead claimants and facilities to believe they have special knowledge of VA laws and can maximize claimants’ entitlement to VA benefits. Although these individuals work for private companies, they may have job titles that suggest a government connection, e.g., Veterans Benefits Analyst.

## **Representation**

Representation before VA consists of actions associated with the preparation, presentation, and prosecution of claims for a VA claimant. A claimant is a person who has filed or has expressed an intention to file a written application for benefits. Among other things, representation may include counseling on veterans benefits, gathering information necessary to file a claim for benefits, preparing claim forms, submitting claim information to VA, and communicating with VA on a claimant’s behalf.

Organizations and individuals that represent claimants for VA benefits are subject to specific statutory and regulatory requirements. Section 5901 of title 38, United States Code, provides, “no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Secretary [of Veterans Affairs] unless such individual has been recognized for such purposes by the Secretary.” While VA can authorize an individual to prepare a benefit claim for a

Director (00/21)

veteran on a one-time basis, this authorization cannot be used a second time without the approval of the VA's General Counsel.

## **Solicitation of Fees**

Accredited attorneys and agents are allowed to charge fees for representational services they provide after the Board of Veterans' Appeals makes a final decision in a case. VA's regulations provide a narrow exception to the general rule whereby a "disinterested" third-party may pay an accredited attorney or agent for services provided before a final Board decision, and that representation can include the preparation of claims.

Some organizations that do not qualify for VA recognition structure their business to receive payment for their services from claimants' private care providers in an effort to avoid criminal penalties. The care providers typically do not know that these organizations are prohibited by law from preparing claims and charging fees, and are generally unaware of the services provided freely by recognized veterans service organizations.

## **Recognized Representatives**

VA currently recognizes 87 veterans service organizations consisting of 37 national organizations and 50 State and regional organizations for purposes of representing veterans before the Department. All of these organizations provide representation at no cost to the veteran, and by law may not charge any other person for representation before the Department.

You can verify the recognition of organizations and accreditation of individuals on the General Counsel's web page. Go to [www.va.gov](http://www.va.gov). Click on Organizations at the top of the page. Under *Staff Organizations*, click on *General Counsel*. When that page opens, click on *Recognized Veterans Service Organizations* on the left side and then click on *Current Bulletin 23-S*. This will give you the list of recognized organizations. If you want to see the list of individuals who are accredited through each organization, click on *Current Bulletin 2-151*. The Office of General Counsel maintains these bulletins and updates them periodically.

Director (00/21)

## **Instructions**

If you receive reports from veterans, their dependents, or other interested parties about any individual contacting them about VA benefits or claiming to work for any group that has not been recognized by VA, please notify Compensation and Pension Service through the Outreach Staff Mailbox (VAVBAWAS/CO/OUTREACH). Provide all pertinent information that is available, such as the individual's or the organization's name, phone number, address, and e-mail, as well as the date and place of contact and what the individual discussed.

Unauthorized representation of claimants and unlawful solicitation of fees is a serious matter. VA is interested in any individual or group that may be engaged in these activities. Regional offices should contact their local VA Regional Counsel with any information regarding the unauthorized representation of claimants for VA benefits. You should contact your local VA Office of the Inspector General with information regarding anyone who may be violating the law by charging fees.

## **RO Actions**

Elderly coordinators must establish working relationships with state offices of national organizations, such as AARP or Assisted Living Federation of America, if they have not yet done so. These organizations should be provided with information about VA benefits for their newsletters, web sites, and conferences. Information about non-service-connected pension, household benefits, and aid and attendance is particularly relevant. The more information these organizations receive directly from VA, the less chance they will need information from other sources.

## **Questions**

If you have questions or need additional information, e-mail the Outreach Staff mailbox (VAVBAWAS/CO/OUTREACH).

/S/

Bradley G. Mayes  
Acting Director  
Compensation and Pension Service